IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

STATE OF OHIO,   :   APPEAL NO. C-090303
                                             TRIAL NO. 08CRB-42058
    Plaintiff-Appellee,   :
                                             JUDGMENT ENTRY.
vs.   :

GINA NICHOLSON,   :

    Defendant-Appellant.   :

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.[1]

Defendant-appellant Gina Nicholson appeals a conviction for domestic violence under R.C. 2929.25(A). We find no merit in her single assignment of error, and we affirm her conviction.

The record shows that Nicholson lived in an apartment with her 16-year-old son, Tristan Overton. Overton testified that he had come home from work, and that Nicholson had asked him for five dollars that he owed her. When Overton said he did not have the money, the two began arguing.

The argument continued on and off over a period of time. Overton went to his room and came out when he thought the situation had become calm. While he was playing a video game, Nicholson resumed the argument. As Overton was trying to go back to his room, Nicholson cornered him near the door and stabbed him by his left elbow with an object "like a steak knife." He ran upstairs to a neighbor's apartment and called the police. A police officer photographed the wound by his elbow.

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[1] See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

Nicholson presented evidence that before Overton had returned home, she had been using his computer. Helen Law, Nicholson's mother, and another of Law's daughters were visiting. She told them that she was nervous about them leaving because Overton disliked her using his computer. Before the women left, they advised Nicholson to assert herself.

When Overton returned, Nicholson was still seated at the computer. Overton made a comment, and Nicholson responded, "So what, I can do what I want to do." She then asked him for five dollars, and he gave the money to her. They then began arguing about the computer, and Overton asked for the five dollars back. Nicholson refused, stating that he owed her more than five dollars.

According to Nicholson, Overton started knocking pictures off the walls and threw a chair. She stated that he became threatening and "kept getting up in [her] face." He also unplugged the computer and threatened to unplug the cable.

Nicholson decided to leave and called for a taxi. But before it arrived, she and Overton ended up in a "tussle" by the door. Finally, she pushed him out of the apartment and locked the door. She denied stabbing him, although she stated that she jumped up and ran at him when he was by the door to scare him out of the apartment. She told the police that Overton had stabbed himself with a box cutter.

In her sole assignment of error, Nicholson contends that her conviction was against the manifest weight of the evidence. After reviewing the evidence, we cannot say that the trier of fact lost its way and created such a manifest miscarriage of justice that we must reverse Nicholson's conviction and order a new trial. Therefore, the conviction was not against the manifest weight of the evidence.[2]

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[2] *State v. Thompkins*, 78 Ohio St.3d 380, 1997-Ohio-52, 678 N.E.2d 541; *State v. Baldwin*, 1st Dist. No. C-081237, 2009-Ohio-5348.

Nicholson is simply arguing that her evidence was more credible. But matters as to the credibility of evidence were for the trier of fact to decide.[3] Consequently, we overrule Nicholson's assignment of error and affirm the trial court's judgment.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HILDEBRANDT, P.J., DINKELACKER and **MALLORY, JJ.**

To the Clerk:

Enter upon the Journal of the Court on April 7, 2010

per order of the Court _____.
                              Presiding Judge

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[3] *State v. Bryan*, 101 Ohio St.3d 272, 2004-Ohio-971, 804 N.E.2d 433; *State v. Williams*, 1st Dist. Nos. C-060631 and C-060668, 2007-Ohio-5577.